

Hearing Date: April 7, 2020 9:30 AM AST

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO,

Debtor.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO HIGHWAYS AND
TRANSPORTATION AUTHORITY (“HTA”),

Debtor.

PROMESA

Title III

No. 17 BK 3567-LTS

**RESPONSE AND RESERVATION OF RIGHTS OF ASSURED GUARANTY CORP.,
ASSURED GUARANTY MUNICIPAL CORP., AMBAC ASSURANCE CORPORATION,
NATIONAL PUBLIC FINANCE GUARANTEE CORPORATION, AND FINANCIAL
GUARANTY INSURANCE COMPANY REGARDING DRA PARTIES’ RESPONSE TO
(I) MONOLINES’ MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND
(II) OPPOSITION OF FINANCIAL OVERSIGHT AND MANAGEMENT BOARD**

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

The Monolines,² by and through their undersigned counsel, hereby submit this joint Response and Reservation of Rights regarding the *DRA Parties’ Opening Response to (I) Motion of Assured Guaranty Corp., Assured Guaranty Municipal Corp., Ambac Assurance Corporation, National Public Finance Guarantee Corporation, and Financial Guaranty Insurance Company for Relief from the Automatic Stay, or, in the Alternative, Adequate Protection, and (II) Opposition of Financial Oversight and Management Board for Puerto Rico to Motion of Assured Guaranty Corp., Assured Guaranty Municipal Corp., Ambac Assurance Corporation, National Public Finance Guarantee Corporation, and Financial Guaranty Insurance Company for Relief from the Automatic Stay, or, in the Alternative, Adequate Protection*, ECF No. 12396 (the “DRA Response”), and in further support of the Monolines’ lift-stay motion (ECF No. 10102) (the “Motion”), and respectfully state as follows:

RESPONSE AND RESERVATION OF RIGHTS

1. The Monolines filed their Motion on January 16, 2020, and the FOMB filed its Opposition to the Motion on February 3, 2020 (ECF No. 10613) (“Opposition”). The DRA Parties filed their DRA Response on March 16, 2020.

2. In the DRA Response, the DRA Parties join certain arguments that were raised by the FOMB in its Opposition. *See, e.g.*, DRA Response ¶ 55 (discussing the scope and validity of security and property interests granted to the Monolines). The Monolines respectfully reserve the right to respond to any such arguments (that were raised by the FOMB and are merely joined by the DRA parties) in their forthcoming Reply in further support of the Motion. The Reply

² The “Monolines” are Assured Guaranty Corp., Assured Guaranty Municipal Corp., Ambac Assurance Corporation, National Public Finance Guarantee Corporation, and Financial Guaranty Insurance Company. Capitalized terms not defined herein shall have the meanings ascribed to them in the lift-stay motion (ECF No. 10102). Unless otherwise indicated, all ECF numbers referenced in this Response and Reservation of Rights refer to the docket in Case No. 17-3283-LTS.

will fully address the FOMB's arguments that the DRA Parties have joined. As Movants will establish in the response to the FOMB opposition, FOMB's security interest arguments are entirely devoid of merit and are not grounded in the Bond Resolutions or any other applicable law.

3. To the extent the DRA Parties assert any unique rights to revenues arising under Acts 30 and 31 of 2013 (*see, e.g.*, DRA Response ¶ 47), such arguments are outside the scope of the DRA Parties' limited intervention, *see* DRA Participation Order at 4–6 (ECF No. 12005) (defining scope of intervention). The DRA Parties appear to recognize this, clarifying that they do not intend to raise intercreditor issues in connection with the present Motion. *See* DRA Response ¶ 47 n. 6 (“These arguments are not being presented to inject intercreditor disputes in violation of the DRA Participation Order but rather as concrete examples to rebut the FOMB's position as to the availability of the Act 30-31 Revenues to general creditors of HTA.”). The Monolines, like the DRA Parties, reserve the right to address any intercreditor and subordination issues at the appropriate time.

Dated: New York, New York
March 23, 2020

CASELLAS ALCOVER & BURGOS P.S.C. CADWALADER, WICKERSHAM & TAFT LLP

By: /s/ Heriberto Burgos Pérez

Heriberto Burgos Pérez
USDC-PR 204809
Ricardo F. Casellas-Sánchez
USDC-PR 203114
Diana Pérez-Seda
USDC-PR 232014
P.O. Box 364924
San Juan, PR 00936-4924
Telephone: (787) 756-1400
Facsimile: (787) 756-1401
Email: hburgos@cabprlaw.com
rcasellas@cabprlaw.com
dperez@cabprlaw.com

*Attorneys for Assured Guaranty Corp.
and Assured Guaranty Municipal Corp.*

By: /s/ Mark C. Ellenberg

Howard R. Hawkins, Jr.*
Mark C. Ellenberg*
William J. Natbony*
Ellen M. Halstead*
Thomas J. Curtin*
Casey J. Servais*
200 Liberty Street
New York, NY 10281
Telephone: (212) 504-6000
Facsimile: (212) 504-6666
Email: howard.hawkins@cwt.com
mark.ellenberg@cwt.com
bill.natbony@cwt.com
ellen.halstead@cwt.com
thomas.curtin@cwt.com
casey.servais@cwt.com

* Admitted *pro hac vice*

*Attorneys for Assured Guaranty Corp. and
Assured Guaranty Municipal Corp.*

ADSUAR MUNIZ GOYCO SEDA &
PEREZ-OCHOA PSC

WEIL, GOTSHAL & MANGES LLP

By: /s/ Eric Perez-Ochoa

Eric Pérez-Ochoa
USDC-PR No. 206,314
E-mail: epo@amgprlaw.com

By: /s/ Luis A. Oliver-Fraticelli

Luis A. Oliver-Fraticelli
USDC-PR NO. 209,204
E-mail: loliver@amgprlaw.com

208 Ponce de Leon Ave., Suite 1600
San Juan, PR 00936
Tel.: (787) 756-9000
Fax: (787) 756-9010

*Attorneys for National Public Finance
Guarantee Corp.*

By: /s/ Robert Berezin

Jonathan Polkes*
Gregory Silbert*
Robert Berezin*
Kelly Diblasi*
Gabriel A. Morgan*
767 Fifth Avenue
New York, New York 10153
Tel.: (212) 310-8000
Fax: (212) 310-8007
Email: jonathan.polkes@weil.com
gregory.silbert@weil.com
robert.berezin@weil.com
kelly.diblasi@weil.com
gabriel.morgan@weil.com

* admitted *pro hac vice*

*Attorneys for National Public Finance
Guarantee Corp.*

FERRAIUOLI LLC

MILBANK LLP

By: /s/ Roberto Cámara-Fuertes

Roberto Cámara-Fuertes
USDC-PR NO. 219,002
E-mail: rcamara@ferraiuoli.com

By: /s/ Sonia Colón

Sonia Colón
USDC-PR NO. 213809
E-mail: scolon@ferraiuoli.com

221 Ponce de Leon Ave., 5th Floor
San Juan, PR 00917
Tel.: (787) 766-7000
Fax: (787) 766-7001

Counsel for Ambac Assurance Corporation

By: /s/ Atara Miller

Dennis F. Dunne*
Atara Miller*
Grant R. Mainland*
John J. Hughes III*
55 Hudson Yards
New York, New York 10001
Tel.: (212) 530-5000
Fax: (212) 530-5219
Email: ddunne@milbank.com
amiller@milbank.com
gmainland@milbank.com
jhughes2@milbank.com

*admitted *pro hac vice*

Counsel for Ambac Assurance Corporation

REXACH & PICÓ, CSP

BUTLER SNOW LLP

By: /s/ María E. Picó

María E. Picó
USDC-PR 123214
802 Ave. Fernández Juncos
San Juan PR 00907-4315
Telephone: (787) 723-8520
Facsimile: (787) 724-7844
E-mail: mpico@rexachpico.com

*Attorney for Financial Guaranty
Insurance Company*

By: /s/ Martin A. Sosland

Martin A. Sosland (*pro hac vice*)
5430 LBJ Freeway, Suite 1200
Dallas, TX 75240
Telephone: (469) 680-5502
Facsimile: (469) 680-5501
E-mail: martin.sosland@butlersnow.com

**Admitted pro hac vice in Case No. 17-BK-03283-LTS and Case No. 17-BK-03567-LTS*

Jason W. Callen
150 3rd Ave., S., Suite 1600
Nashville, TN 37201
Telephone: 615-651-6774
Facsimile: 615-651-6701
Email: jason.callen@butlersnow.com

**Admitted pro hac vice in Case No. 17-BK-03283-LTS and Case No. 17-BK-03567-LTS*

*Attorneys for Financial Guaranty Insurance
Company*

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing document to be filed electronically with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to all parties of record in the captioned case.

At New York, New York, March 23, 2020.

By: /s/ Robert Berezin

Robert Berezin

* admitted *pro hac vice*